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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-third session

SUMMARY RECORD OF THE 7th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 8 August 1991, at 10 a.m.

Chairman: Mr. JOINET

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The meeting was called to order at 10.10 a.m.

ELIMINATION OF RACIAL DISCRIMINATION (agenda item 5) (continued)

(a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION (continued) (E/CN.4/Sub.2/1991/11 and 12; E/CN.4/Sub.2/1989/8 and Add.1; E/CN.4/1991/63 and Add.1)

(b) ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE RACIST AND COLONIALIST REGIME OF SOUTH AFRICA (continued) (E/CN.4/Sub.2/1991/13 and Add.1)

1. Mr. SACHAR, after recalling the special emotional link between South Africa and the people of India, said that most critics had sought to examine the deprivation of blacks in South Africa as if it was a mere denial of human rights to a small segment of the population. That was an incorrect perspective. Blacks in South Africa were not a minority and it was not therefore as if their problem was like that of blacks in America. South Africa belonged to blacks. They were the natural rulers of that country. The white minority had seized political, economic and social rights and had deprived the majority of the people of their legitimate political and economic share. The struggle of the blacks in South Africa therefore had to be seen as a liberation struggle, as the struggle for freedom, self-determination and control of the destiny of their own country. That qualitative factor differentiated the fight of the blacks in South Africa and emphasized not only the urgency of the problem but the need for different methodology and different remedies than the normal remedies applied for the benefit of minorities. The basic problem in South Africa would not be solved unless the blacks were able to control the destiny which was theirs by the fact of being the majority. So long as the blacks were denied their right to equality of vote and equal participation in political power and so long as hurdles prevented the achievement of political equality between blacks and whites, the situation in South Africa would continue to deteriorate. The blacks wished not only to sit at the table of power but also to have their due share which inevitably would reduce the whites to a minority. The leaders of the white minority were not willing to accept such a position and unfortunately the international community was not willing to force the whites to accept it.

2. It had been globally assumed that the sanctions against South Africa, which had been imposed as a result of worldwide resentment at the policy of apartheid, would force the South African racist regime to agree to the reasonable and just demands of the blacks. Though there had been some weakening of the South African Government, the result had not been commensurate with the hopes of those who had initiated the movement for sanctions. The real reason why sanctions had not achieved the hoped-for result was that, although on paper sanctions had been imposed, in reality various devices had been adopted by a number of countries with the result that the pressure on the South African economy had not been as great as it should have been.

3. In that connection he congratulated Mr. Khalifa on his detailed and painstaking report (E/CN.4/Sub.2/1991/13 and Add.1) which had demonstrated that although Governments had restricted direct equity investments by law,

they had permitted the existing level of investment to continue. Among the numerous examples cited by Mr. Khalifa was that of General Motors which was said to have sold its subsidiary to local management under the direction of an American executive but with the provision that the parent would return openly when circumstances permitted.

4. Other aid from abroad had continued notwithstanding the sanctions. In 1985 the South African Government had taken the step of a unilateral moratorium on the payment of the principal of short-term international debt falling due during the ensuing four months and had extended the moratorium to the end of March 1986. It had also worked out three successful agreements with its creditors in 1986, 1987 and 1989. Thus, South Africa had been able to retain its funds and to buy time in which to re-establish its creditworthiness. Moreover, South Africa apparently had not had much difficulty in getting easy credits from many multinational corporations. South Africa had also been able to evade sanctions by diverting imports and exports through third countries. South African products had been sold under false labels and with misleading certificates of origin and transformation as in the case of coal channelled to Europe through the ports of Antwerp and Rotterdam. The ban on iron ore exports had been evaded by Japan while the United States continued to import South African uranium hexafluoride on the grounds that it fell outside its ban on uranium ore-oxide.

5. The Centre against Apartheid had reported that there had been a marked increase in exports to South Africa from Germany, Japan, the United Kingdom, the United States and France. Payment for such exports would have been impossible if South Africa's major trading partners had not provided guaranteed export credits. It was therefore unfortunate that President Bush had announced the lifting of sanctions unilaterally and had merely talked on the telephone with Mr. Nelson Mandela, the undoubted and real leader of South Africa, before announcing that decision, instead of consulting him beforehand. President Bush's action might well have an escalating effect. Even in India there had been an immediate reaction in favour of opening up all avenues with South Africa including the removal of sports barriers. Fortunately that aberration had been short-lived and no one had dared suggest that the behaviour of the South African Government justified the country's acceptance into the comity of nations as a civilized democratic Government.

6. It was important to remember that there had been large-scale violence in South Africa during the previous year. Interested foreign media and parties had blamed Mr. Mandela and his party for such violence while giving a favourable account of Mr. Buthelezi. The fact that Mr. Buthelezi was a front of the South African Government to destroy the power and credibility of Mr. Mandela had been revealed in the press and subsequently Mr. Botha, the Foreign Minister, whose Ministry had provided the cash funds to subsidize those activities had said that he saw nothing wrong in such action and that he would do the same again if circumstances warranted. Nevertheless, Mr. Botha continued in office while the Ministers of Defence and Law and Order, who had also been implicated in the plot, had merely been demoted instead of being criminally prosecuted.

7. He himself would like to believe that President De Klerk and others genuinely wished to dismantle the horror of racism in South Africa, but such events did not make it easy to accept the credibility of those who were running the South African administration. Giving up political power was not easy even in a democratic system. It was almost impossible when a minority held political power by sheer force of arms. It was for that reason that constant pressure must be kept on the South African Government to dismantle the tools of racism, apartheid and armed might. It was therefore his view that there should be no immediate removal of sanctions. The Sub-Commission should continue to exert pressure for the imposition of even greater sanctions against South Africa and should not accept that South Africa had come to a point where it could be accepted as a part of the comity of civilized nations.

8. Mr. SABOIA congratulated Mr. Khalifa on yet another comprehensive report (E/CN.4/Sub.2/1991/13 and Add.1) which was one of the richest sources of information on the relationships that continue to exist between the South African white minority and the international business community as well as the degree to which economic sanctions had worked. He considered that Mr. Khalifa's mandate should be renewed although perhaps in a modified form, in order to allow him to focus more deeply on the changes which South Africa was undergoing.

9. In his view, there had been considerable progress towards the goal of dismantling the abhorrent apartheid system and such signs of change could not be ignored. Much remained to be achieved, however, not only in legal terms but also, and perhaps chiefly, in what concerned political, social and economic reforms. Previous speakers had pointed to the serious discriminatory and arbitrary practices that still restricted the freedom and activities of members of the black majority. It must be stressed that an essential condition for assessing the degree of success of the current process of change must be the granting of full political rights to the black citizens of South Africa and allowing them to participate properly in the political process. The remaining numerous political prisoners must also be released.

10. Although in his view the process of eliminating apartheid was irreversible, international pressure must be maintained and it was too early for sanctions to be lifted. In order to provide positive incentives and to preserve the economy of the country, sanctions should be continuously reviewed over a period of time in the light of the rate of progress towards the abolition of apartheid and in the political negotiations with all interested political parties. Close monitoring of the situation in South Africa was therefore necessary. As a body of experts, the Sub-Commission could, in coordination with other United Nations bodies, have a useful role to play in such a monitoring process.

11. With specific reference to item 5 (a), he shared the concern of other members regarding the re-emergence, sometimes under new forms, of racism and racial discrimination. In that connection, the Swiss press had, that very morning, reported new criminal acts against asylum seekers.

12. After several decades of United Nations efforts, it was sad to see how persistent the phenomenon of racism could be and it was perhaps even more disquieting to observe the reappearance of racism, sometimes in its ugliest

and most violent forms, in countries where access to education and culture would hopefully have encouraged more enlightened attitudes. Racist attitudes and acts seriously affected the situation of migrant workers, refugees and aliens in general, whose human rights were frequently restricted or denied.

13. New forms of racism sometimes came disguised under new terminology, abandoning the discredited theme of inequality in favour of an "ideology" which emphasized the value of diversity, stressing the importance of preserving national, cultural and ethnic peculiarities. Such an attitude, taken to its extreme limits, became hostile to interracial, interethnic or cross-cultural integration. It was easy to see how closely interlinked with other current manifestations of intolerance and discrimination racist tendencies could be.

14. Economic factors were also important in explaining, although never in justifying, the current resurgence of racism in the developed world. The lack of economic prospects in most of the countries of the South had led to mounting emigration of people from those countries in search of better opportunities elsewhere. Similar pressures had brought millions of immigrants to the Americas in the past in a movement that had been very successful in many respects. It so happened, however, that current South-North migration did not seem to enjoy the same acceptance.

15. It was therefore possible to perceive how closely interrelated and interdependent human rights were. The denial of the right to development, in its national and international dimensions, was undoubtedly one factor in the upsurge of racist and xenophobic feelings in some developed countries and might explain why, even after the fall of the Berlin Wall, other walls were being erected to prevent the free flow of people.

16. In conclusion, he supported the suggestions contained in document E/CN.4/Sub.2/1991/11 on ways and means necessary to increase the effectiveness of United Nations action to combat racism and racial discrimination. He also supported most of the comments made by other members of the Sub-Commission in that connection.

17. Mr. EIDE, referring to the forthcoming joint meeting with CERD, considered that that meeting would be of great importance and that the Sub-Commission should prepare itself to make the best use of the opportunity thus provided. In his view the agenda should, first, comprise an exchange of views on emerging problems and trends. There should also be a discussion on protection from racial discrimination in relation to other human rights. He agreed with the substance of what Mrs. Warzazi and Mrs. Ksentini had said and the problems they had pointed to; there was a need to explore the whole problem as it was very serious. For example he had heard from representatives of Governments of Eastern European countries that they had found it difficult to interfere with freedom of expression, even of a very racist or anti-Semitic character, because of previous restrictive attitudes. It was a serious problem and CERD had been doing interesting work in that connection. As a third point, the joint meeting should discuss the question of the effectiveness of international instruments and, in particular, why so few States had acceded to article 14, even those States which had endorsed further adherance to that article by others.

18. He considered that the mandate of Mr. Khalifa should be continued and that the topics covered should be broadened to take account of the changes which had occurred.

19. Mrs. WARZAZI said that Mr. Khalifa's outstanding analysis in documents E/CN.4/Sub.2/1991 and Add.1 had doubtless provided a salutary shock for all who had thought that the struggle against apartheid could finally be relaxed.

20. President De Klerk had undeniably been courageous in embarking on the dismantling of apartheid in the face of vigorous opposition from his own party, and the international community welcomed the numerous measures he had taken including the liberation of Nelson Mandela and the abolition of the legislation that underpinned apartheid. The ANC had shown a remarkable spirit of dialogue in announcing that it was suspending all armed action.

21. Attitudes had changed: for instance, the Reformed Church, which had always supported apartheid, had said that racial discrimination was a crime against the South African people. It was therefore not surprising that with so many changes some people should have become optimistic, indeed euphoric. However, optimism was not justified while many political prisoners were still in jail, refugees were still exiled and there was no prospect of changing racial classification until a new constitution was adopted. Apartheid would continue until the 30 million black inhabitants of South Africa had the right to vote. The ANC's demand that the tricameral Parliament should be dissolved and that a new interim government should be set up had been categorically rejected. Sanctions should therefore be lifted only when those demands were taken into account. In that regard the ANC had shown flexibility: at its National Conference it had suggested that sanctions should be lifted in three stages. The last stage would be the raising of the embargo on oil and arms as soon as a new constitution was promulgated, and elections based on universal suffrage were held. It was therefore only to be expected that the international community should continue its pressure on South Africa.

22. Mr. Khalifa's assessment of the situation might have seemed rather severe. But it was much wiser to stay calm than to become over-enthusiastic about the situation in South Africa. Despite the tremendous progress achieved, the position of the Azanian people was still precarious. The continuing violence and the latest revelations about the assistance provided by ministers, members of the police force and security service in South Africa to Inkatha were a serious obstacle to the preparatory discussions for a multi-party conference. Surprisingly, some experts on the Sub-Commission had attempted to dissociate President De Klerk from his ministers, police and security forces, while others considered that those reactionary forces bore full responsibility for the violence between ANC and Inkatha. She was inclined to give Mr. De Klerk the benefit of the doubt for it was not impossible that retrograde forces were trying to thwart his new policy. Although reactionary forces had deliberately supported Inkatha, she could not agree that the South African authorities bore sole responsibility for the violence. Inkatha could not be absolved of the crimes that it was committing against the people of Azania.

23. An independent group of experts requested by the Governing Body of ILO to monitor the implementation of sanctions against apartheid had concluded that the South African economy had been seriously affected by international financial sanctions. Between 1985 and 1989 some $40,000 million had been moved out of South Africa. It was therefore easy to see why President De Klerk had decided on a new policy for South Africa.

24. It would be unwise to lift sanctions before the process was completed. The terrible suffering of the Azanian people would have been in vain if the international community did not fulfil its mission of releasing 30 million slaves from the yoke of apartheid.

25. She therefore supported the extension of the mandate of the Special Rapporteur who was making a valuable contribution on behalf of the Sub-Commission to the ending of an abhorrent regime.

26. Mr. ALFONSO MARTINEZ recalled that the previous year Mr. Khalifa had warned the Sub-Commission of new forms of racial discrimination and xenophobia in the world. The so-called new world order had brought with it, inter alia, an increase in such developments. The countries of the third world were becoming poorer as trade restrictions increased and investment decreased, and consequently many of their citizens were seeking work in the developed market economy countries where they were finding an alarming increase in racism, xenophobia and intolerance. He agreed with the concerns expressed by other members in that regard.

27. The outline of ways and means necessary to increase the effectiveness of United Nations action to combat racism and racial discrimination by the Secretary-General (E/CN.4/Sub.2/1991/11) suggested that new expressions of racism should be analysed within the context of the circumstances affecting vulnerable groups. Invisible walls were erected by host societies against migrant workers who, because of the pressures created by the free market economy, had to seek new horizons. The Sub-Commission could play an important part in investigating such trends and in formulating recommendations to assist vulnerable groups facing contemporary forms of racism and racial discrimination.

28. He agreed with the recommendation in paragraph 10 of document E/CN.4/Sub.2/1991/11 that the Sub-Commission should consider updating the special study of racial discrimination prepared by the Special Rapporteur, Mr. Hernán Santa Cruz in 1976.

29. In connection with document E/CN.4/Sub.2/1991/12, he agreed that, although few Governments had responded to the Sub-Commission's request in resolution 1990/2, the Secretariat should have provided a more substantial document.

30. He congratulated Mr. Khalifa on his updated annual report (E/CN.4/Sub.2/1991/13 and Add.1). Clearly apartheid was alive and healthy in South Africa. The Government of that country had a two-fold policy: while taking measures such as freeing Nelson Mandela and abrogating certain laws, it was not taking any real steps to eradicate apartheid. The black and coloured population still had no guaranteed civil and political rights or economic

opportunity. One insidious result of the two-fold policy was the violence instigated by the Government in many parts of the country, as had been demonstrated by the recent publication of the links between the Government and Inkatha and the fact that the murders and disappearances of anti-apartheid militants were to be investigated, not independently, but by the governing National Party itself.

31. Mr. Khalifa's analysis of the economic situation in South Africa was particularly interesting. His report drew attention to the fact that transnational companies were actually helping to maintain apartheid in South Africa by their policy of limited disinvestment, and the report made pertinent remarks about the reduction of direct investment. It also analysed the weaknesses of the South African economy and the measures adopted by the Government to cope with them. As explained in paragraph 43 of the report, the international capital market had rescheduled South African debts, thus considerably easing the pressure on the Government.

32. The report dealt with the measures adopted by South Africa to overcome the trade sanctions against it. Some experts, including Mr. Treat, had already mentioned the subject of sanctions. His own country, Cuba, had been subjected not only to sanctions but to an implacable 30-year economic blockade, and he therefore realized the extent to which sanctions affected the whole life of a country. The United States of America had adopted sanctions against Cuba in 1960-61 and they were still in force, whereas it had taken 15 years to impose sanctions on South Africa and the Executive had raised them very quickly.

33. According to Mr. Khalifa's report, the United States and the United Kingdom each had more than 1,000 companies that still traded with South Africa and thus continued to breathe life into the apartheid regime.

34. In conclusion, he agreed with those who argued that sanctions should not be removed until the indigenous population of South Africa had acceded to self-determination and real democracy.

35. Mr. TREAT pointed out to Mr. Sachar, who had indicated that President Bush had not consulted Mr. Mandela before lifting sanctions, that although Mr. Mandela was highly regarded in the United States, for a President to consult with a non-elected official rather than with the elected officials of a country, despite his disapproval of their policies, would be a violation of normal diplomatic protocol.

36. He welcomed many of Mr. Alfonso Martinez's comments but believed that there were few parallels in the sanctions against South Africa and those against other countries. It was perhaps not always appreciated that President Bush, in lifting United States sanctions, had been responding to a Congressional mandate.

37. Mr. SACHAR observed that he had made his statement on the basis of a newspaper report in which it was stated that the President was asked if he had consulted Mr. Mandela before removing sanctions. He was reported to have spoken to him by telephone before announcing the decision. His grievance was that that was not enough.

38. Mr. ALFONSO MARTINEZ, replying to Mr. Treat, emphasized that he had not questioned the constitutional authority of President Bush to take the decision on sanctions but only that the decision to impose sanctions on Cuba had been taken at the initiative of the Executive and not the Congress. It was also at the initiative of the Republican Executive that the blockade against Cuba had recently been strengthened.

39. Mr. WATANABE (World Council of Churches) said that the Commission on International Affairs of his Council wished to raise the increasing incidence of racial discrimination against migrant workers, refugees and other foreigners throughout the world.

40. The Council and its 317 member Protestant and Orthodox churches in more than 100 countries had welcomed the adoption by the General Assembly of the United Nations of the International Convention on the Protection of the Rights of all Migrant Workers and their Families. Prompt ratification by States would provide necessary protection to that vulnerable group of people.

41. The situation in Japan was severe, but little known. In 1991 the World Council of Churches had sent an international mission to that country at the invitation of the National Christian Council in Japan to investigate the treatment of foreign migrant workers. Government policies and racial sentiment in Japan towards foreigners seemed to reflect attitudes of racial superiority. Immigration policies for migrant workers were explicitly justified by the need to protect the homogeneity of Japanese society. However the expanding Japanese economy was increasingly dependent on the use of foreign migrant workers, and as a result the laws applying to them were extremely restrictive and discriminatory, in clear violation of several international human rights instruments.

42. The present Japanese immigration law recognized 28 categories of residence qualifications, but work permits were granted for restricted occupations and residence for the purpose of general labour was not permitted. Foreign workers were forced either to overstay and work in unskilled jobs or to reside as entertainers, students or technical trainees and to work outside their visa qualifications. Their number was not known even to the Immigration Bureau of the Ministry of Justice but was said to exceed 250,000. In those conditions, discrimination and human rights violations were rife.

43. The most widespread violation of foreign workers' rights was non-payment of wages by employers who took unfair advantage of the "illegal" status of their workers. Foreign workers appealing to the Labour Standards Inspection Office ran the risk of being reported to the Immigration Authority and deported for violating the immigration law.

44. In addition many labour incidents occurred with foreign workers on job sites that were dangerous. Because of the illegal status of such workers, employers were reluctant to apply for labour accident insurance. Governmental safety guidance for employers was impossible to put into practice because of the Government's policy of clearing out illegal workers.

45. There was widespread violation of the rights of women. One Thai woman had been sold for $20,000 by international syndicates and brought to Japan to be forced into prostitution. When such women, of whom there were many, sought the help of the police or social welfare centres, they were deported for violating the immigration law and saddled with debt on their return home.

46. Illegal recruiters controlled employment and reaped great profit from trafficking in persons. The Government Employment Authority gave priority to excluding foreign workers and had no effective strategy for preventing illegal employment transactions.

47. Because of their unauthorized status, most foreign workers were not covered by insurance, and Japanese medical fees were too high for them to pay.

48. In the case of children born to foreigners who were in Japan illegally registration brought the danger of deportation, and most of the marriages of foreigners who stayed longer than permitted were not legalized.

49. The World Council strongly urged the Sub-Commission to call on the Member States of the United Nations to ratify and implement the International Convention on the Protection of the Right of all Migrant Workers and their Families. It urged that increased attention be paid by the Sub-Commission to the question of the violation of the rights of migrant workers, refugees, asylum seekers and other vulnerable foreigners as a new form of racial discrimination. The case of Japan might well merit specific attention.

50. The Council commended the Sub-Commission's resolution 1990/2 requesting the Secretary-General to prepare an overview of current trends of racism, discrimination, intolerance and xenophobia affecting such groups as migrant workers and other vulnerable groups, which it hoped could be prepared for the following year.

51. Mr. EYA-NCHAMA (International Movement for Fraternal Union among Races and Peoples) thanked Mr. Khalifa for having once again pointed out the complicity between some multinational corporations and the odious regime of apartheid in South Africa and for his defence of the human rights of the majority of the population of that country. Blacks had been excluded from the political life of South Africa since 1910, and particularly since 1948, when Mr. Malan, the ideological friend of Adolf Hitler, Benito Mussolini, Oliveira Salazar and Francisco Franco, had implanted in South Africa what Adolf Hitler had sought to impose in Europe - the division of society on the basis of "superior" and "inferior" races.

52. In September 1989, as a result of the struggle waged by the majority of the South African people and by anti-racist forces throughout the world, Mr. De Klerk, another South African of Mr. Malan's National Party, had stated that he wished to abolish the apartheid regime, provoking an institutional and moral crisis among the white minority. The white-minority Parliament had just abolished the apartheid legislation which it had approved since 1948, an action for which it was to be commended. However, the repeal of that legislation did not end the oppression of the majority of the population, which was struggling to exercise its right to self-determination. The United Nations would go down in history as the prime mover in decolonization

in the second half of the twentieth century. Its experts on the right to self-determination considered that the right had two aspects, an external aspect and an internal aspect. Only when the South African people as a whole exercised its right to self-determination would it be possible to speak of the end of apartheid.

53. Of the three countries which had officially established apartheid in southern Africa, two - Zimbabwe and Namibia - were currently in control of their own destinies. The International Movement for Fraternal Union among Races and People urged investors everywhere to invest their funds in those two countries and to maintain the sanctions against South Africa, as Mr. Khalifa had recommended, until the whole population of that country was in a position to determine its destiny.

54. The history of the national liberation struggle showed that in the course of the struggle part of the oppressed population usually sided with the oppressors. There had been collaborators with Hitler in the Second World War. The same thing was happening in South Africa in the case of the Inkatha party led by Mr. Buthelezi, who had accepted and supported the system of apartheid, which he had not believed would one day be abolished. However, when he had realized that the anti-apartheid movements were about to succeed, he had begun to massacre the population. It was inconsistent that the Government should finance Inkatha's terrorist activities and, at the same time, state that it wished to abolish apartheid. Propagandists for apartheid in South Africa had interpreted Mr. Buthelezi's actions as a struggle among blacks, overlooking such historical precedents as the Spanish Civil War and the Second World War.

55. The International Movement for Fraternal Union among Races and Peoples urged the Sub-Commission to renew Mr. Khalifa's mandate so that he could continue to work for the total elimination of apartheid.

56. The Governments of the African States whose citizens were working in Europe were partly responsible for the humiliation suffered by their migrant workers, whom they had taken no diplomatic or political action to protect. All States had the right to prevent the entry of aliens into their territory. If Africans had problems in entering Europe, it would be only logical that African Governments should prevent Europeans from entering Africa. Oddly enough, while African immigrants in Europe were being persecuted, European immigrants in Africa were living in paradise. Moreover, there were, for example, more Europeans in Gabon than Gabonese in Europe, and more Europeans in Côte d'Ivoire than citizens of Côte d'Ivoire in Europe. The right solution would be to add up the total number of European immigrants in Africa and of African immigrants in Europe and for Governments then to establish reciprocal quotas. The conditions in which African workers found themselves in Europe were similiar to slavery. European firms recruited workers in north and west Africa and took them to Europe, paying them very low wages. At the same time the political representatives of those firms used the presence of the African workers in order to win elections. The Governments of the countries of north and west Africa were urged to find a solution, as soon as possible, to the slavery-like conditions experienced by their citizens in Europe.

57. Mr. KIRKYACHARIAN (Movement against Racism and for Friendship among Peoples) noted that in many countries racism was increasing, especially against migrant workers from Africa and Asia. At the most recent session of the Commission on Human Rights he had stated that there was a serious danger that, in Europe in 1993, there would be enormous pockets of non-citizens, constituting an obvious threat to democracy. Spokesmen for political and ideological racism liked to describe the workers as "non-European aliens", which was a discreet way of linking skin colour to an inferior social status. Since then the situation had in no way improved, and in the pre-election climate obtaining in France the immigration problem was just one stake in the political debate. The problem was never defined, but it was really a problem of non-citizenship.

58. In that connection, no situation was more enlightening than that of the country of apartheid, the model racist society of the contemporary world. The media often took the view that apartheid had already been abolished, and Governments had declared themselves in favour of lifting the sanctions against South Africa as a means of strengthening the position of Mr. De Klerk and of helping the present regime to move on to a non-racial democracy. Nevertheless, the release of political prisoners was only just beginning, and the abolition of racism in sport had made so little progress that participation in the 1992 Olympic Games might be jeopardized. The shameful reservations known as Bantustans had not been dissolved, and Africans could still be deported to them. Mr. Buthelezi's Inkatha Party was also being scandalously financed. Everyone, especially Frenchmen, knew that what was involved was an assiduous, classical strategy of the colonial Powers: without the benevolent white Government, there could only be savagery. South Africa was therefore still under the apartheid regime, and the premature lifting of sanctions could be explained only by reasons that had nothing to do with the transition.

59. But was there a transition, and what minimum conditions were required for it? The transition might be one to a republican regime based on the equality of citizens, so different from the present situation that a new constitution would be required. However, such a constitution could be adopted only with the agreement of all the social, political and spiritual forces as to its content, or at least as to its form. The equality of citizens was obviously based on universal suffrage, but so far no governmental authority in South Arica had clearly stated its position on that principle. That was easy to understand, since a State based on different principles could not, without committing suicide, suddenly declare that it was in favour of equality. There had to be a clean break, and the present State could facilitate such a break only by agreeing to a transitional arrangement. In other words, a Constituent Assembly had to be elected, but even that had to be preceded by two important political innovations - the formation of an interim government and the establishment of a committee of experts by agreement between the opposing forces. All important moments in the history of democracy had witnessed that kind of transition, and General de Gaulle had been guided by such models of common sense and juridical rectitude. It would therefore be irresponsible to reject such proposals on the ground that they were based on those of the African National Congress. If a way out was to be found, the proposals must be accepted by the white Government. Otherwise, it would be clear that the Government was thinking of another solution involving the resignation of 20 million poor blacks and the acceptation to a few crumbs of dignity by an

élite still to be formed. Such a model was incompatible with human rights. A nited, non-racial and democratic South Africa required real freedom and equality. He urged the Sub-Commission to declare itself clearly in favour of the acceptance of those principles.

60. Ms. MENICI (International League for the Rights and the Liberation of Peoples) said that since its foundations her organization had worked for the democratization of South Africa and was convinced that, in the present very sensitive period, greater attention should be paid to what was happening in that country, where, despite many optimistic declarations, many obstacles to the eradication of apartheid still existed. The South African Government's recent declarations concerning its will for political change and certain concrete steps taken by the same Government towards abolishing some of the legal bases of the apartheid system raised the hope that the liberation of Nelson Mandela could become a prelude to the liberation of all black South Africans from the jail of apartheid. In fact, however, the internal situation in South Africa had changed neither deeply nor substantially and the democratization process still seemed very fragile and full of uncertainties. The fundamental pillars of apartheid remained, an interim government had not yet been formed, and there was no recognition of the basic principle of democracy - one man, one vote. Furthermore, the Government had confessed its involvement in fomenting violence between Inkatha and African National Congress groups, thus destabilizing the country, while the attitude of the police did not seem to have changed. Killings continued, hundreds of political prisoners remained in jail, thousands of political opponents were prevented from returning to South Africa, and restrictions on freedom of thought and the right of expression remained, while the social and economic rights of millions of black South Africans were denied, as had been the rights of the hundreds of thousands of people deported under the Land Areas Act and Groups Areas Act now repealed.

61. At a time when stronger pressure from the international community was needed in order to put an end to a system which was in itself a crime against humanity, some Western Goverments, despite repeated appeals from the political organizations of black South Africans, had recently decided to lift sanctions against South Africa. They were the same Governments that, in other situations and despite United Nations reports and the inquiries of humanitarian organizations, persisted in their will to maintain sanctions that could only bring starvation and death to thousands of children and to the weakest and poorest members of the civilian population. The Special Committee against Apartheid had recently affirmed that the objective of a complete democratization of South Africa could be achieved by maintaining pressure and that a premature lifting of pressure through the elimination of sanctions and the establishment of close relations with South Africa would be counter-productive. The International League for the Rights and Liberation of Peoples therefore urged the Sub-Commission, in accordance with its resolution 1990/10, to condemn the premature lifting of sanctions and to call for the maintenance of comprehensive and mandatory sanctions against the De Klerk Government.

62. Mr. BARSH (Four Directions Council) noted that over the past year there had been some dramatic changes in the role played by human rights in the United Nations system. In April 1991 the Security Council, in its resolution 688, had used violations of human rights as a legal justification,

under the Charter of the United Nations, for authorizing military intervention in northern Iraq. In May, UNDP had published a list of 88 countries in rank order according to a so-called "human freedom index", and a few weeks before the Sub-Commission's present session the World Bank had published a statistical table purporting to prove that respect for human rights stimulated national economic growth. In November 1991, the Committee for Development Planning would launch a study on links between human rights and development. Human rights had suddenly become popular.

63. The sudden emergence of human rights as a "mainstream" issue raised two interrelated questions. The first was whether the standards and methods adopted by different international bodies were consistent with one another. That would be taken up in his organization's intervention under item 3 of the agenda. The second question was whether the traditional human rights programme - in other words, the Sub-Commission, the Commission for Human Rights, the Centre for Human Rights, and the treaty bodies - were prepared to play an effective role in shaping a human rights strategy for the United Nations system as a whole.

64. His organization was not optimistic. While other international bodies were, rightly or wrongly, taking action in particular cases, the human rights programme was still engaged in talk. While others published global lists of violators and violations, the Sub-Commission and the Commission struggled every year to name just a few. And while others viewed human rights as part of a larger process of economic and social change, the human rights programme seemed wedded to the idea that violations were the result of psychological and personal factors.

65. A case in point was the Secretary-General's note on increasing the effectiveness of United Nations action to combat racism and racial discrimination (E/CN.4/Sub.2/1991/11). The resolution requesting that report had expressed the view that racism was intensified by conflicts over economic resources and therefore must be fought, at least in part, by economic measures. After acknowledging that analysis of the problem, the Secretary-General's report proceeded to make recommendations which did not touch at all upon the problem of economic resources. On the contrary, it recommended measures to address bad attitudes and ignorance: studies, seminars, educational materials and publicity. There was a section on coordination, but it dealt only with the possibility of coordinating United Nations information activities.

66. That was a little behind the times. Both UNDP and the World Bank were already engaged in a heated debate with developing countries over political conditionality, while the Committee for Development Planning advocated the approach of additionality for activities that promoted democracy. The United Nations had already used the human rights aspects of an ethnic conflict to justify military intervention in one country, and the Security Council was due to take up a proposal for a second intervention of that kind, in Yugoslavia. Could the human rights programme do nothing more than write further studies and convene seminars? What role should it play?

67. The Four Directions Council considered that, first, human rights bodies had a duty to ensure consistency. There was currently a real danger of different international institutions applying different human rights standards, such that a country rated highly by one agency might be given a low rating by others. That might lead to contradictory action by different United Nations bodies.

68. Second, human rights bodies had a responsibility with respect to the fairness of the process. To the extent that agencies such as UNDP were beginning to classify countries' human rights performance, and possibly to use that classification for policy purposes, it was important to ensure that such classification decisions were fair and neutral. That could result only from a process of information-gathering that was truly uniform and global and from a decision-making process based on clear, transparent and objective criteria. The working methods of human rights bodies had always been rather qualitative and inconclusive, while other parts of the United Nations system, such as UNDP, now purported at least to be quantitative and thus more precise. But was that precision genuine?

69. Third, United Nations human rights bodies should watch the United Nations itself, both with respect to the impact of its operational activities on the enjoyment of human rights and with regard to respect for the rights and dignity of staff members. The United Nations could not hope to promote a "culture of human rights" if its own staff members were subject to discrimination or otherwise mistreated. Internal monitoring had been strongly recommended by the Global Consultation on the Right to Development, but it had never been implemented.

70. Fourth, human rights bodies should develop a standardized and more objective central monitoring capability, one that was truly global and sought comparable information for all countries. If that was not done by the Sub-Commission, it would certainly be done by other United Nations bodies. In practical terms, if the human rights programme did not put its experience to work to develop a sound global monitoring database, the United Nations would end up with one or possibly more monitoring databases which did not benefit from its experience.

71. Fifth, the Sub-Commission in particular should engage in more systematic, country-by-country analyses in all countries, for the benefit of other United Nations bodies. Human rights violations could be both a cause and an effect of other economic and political conflicts. Effective action by international agencies must be based on an understanding of the specific dynamics of each national situation. United Nations economic bodies routinely published "country studies" as a basis for strategic planning. If planning an effective United Nations response to a racial conflict in an economic crisis in a country required structural analysis of that kind, how could the United Nations be expected to respond to a human rights crisis without any analysis?

72. In other words, the human rights programme, and particularly the Sub-Commission, should play the role of a diagnostician. Human rights bodies simply did not have the tools to make significant changes within countries, but they could guide the tools used by other parts of the international system.

73. If racial and ethnic conflicts were frequently intensified by economic competition, an important tool in preventing conflict was the development process within each State. Regionally balanced development that reached all ethnic groups counteracted a build-up of antagonisms that could tear apart even a relatively rich and free country. Thus the development resources of the international system should be used to promote more balanced development as a preventive measure rather than punishing Governments after conflicts arose by scolding them or by withholding resources. Yet in the United Nations the regional distribution of wealth within countries was not routinely examined by either economic or human rights bodies.

74. The exception to that pattern was South Africa. Mr. Khalifa's reports (E/CN.4/Sub.2/1991/13 and Add.1) had been exceptional in that they examined internal economic structures and the external economic and political institutions that sustained them. His reports were diagnoses, not mere catalogues of the symptoms. Unfortunately, the human rights programme had not been able to use them for advocacy to other United Nations agencies. They had been discussed in the Sub-Commission and for all practical purposes used merely as a justification for resolutions critical of the South African regime.

75. Unlike most of the countries which came under criticism in the Sub-Commission, the United Nations was held back more by a lack of political will than by a lack of resources. The United Nations system now wielded considerable economic, and even military, power through agencies that were giving increasing attention to human rights. The issue was one of using the existing resources and power in a fair and effective manner to encourage democratic development.

76. Mr. KHOURY (Observer for the Syrian Arab Republic) paid a tribute to Mr. Khalifa for the efforts he had made to unmask all kinds of racial discrimination in South Africa and the harmful effects for the South African people of the external support given to the Government in Pretoria. The pressure brought to bear had indeed proved to be effective, although racial discrimination could persist in South Africa for many years to come. Consequently, the Sub-Commission must remain firm. Sanctions had been lifted prematurely, and the South African Government was disseminating many lies. Syria had always stood by the South African people in its struggle against apartheid and had complied with all United Nations resolutions concerning the elimination of racism and racial discrimination. It urged transnational corporations to stop all trade with South Africa. Israel's close cooperation with South Africa in the military field could only serve to prevent the advent of democracy for the black majority. A number of changes had recently been made as a result of the struggle waged by the valiant anti-apartheid forces in South Africa, whom all peace-loving peoples should support, but the political prisoners in jail still had to be released.

77. Mrs. GABR (Observer for Egypt) said that the present situation made it necessary to carry out a new analysis and to reach new and different conclusions on a topic which the Sub-Commission had studied for many years. After all those years of study and debate, the Sub-Commission should seek to identify the current possibilities for progress and the requirements for addressing the issue. The Sub-Commission was approaching the Third Decade for Action to Combat Racism and Racial Discrimination and the preparatory meetings

for the 1993 World Conference on Human Rights and it should focus on activities to ensure their success. In its endeavours it should be guided by the guidelines and recommendations in the note by the Secretary-General contained in document E/CN.4/Sub.2/1991/11. The joint meeting with CERD was a step towards further coordination and innovation.

78. In recent years, there had been changes in the legislative structure with regard to apartheid in South Africa, with an attempt at political dialogue with black leaders. She welcomed that progress and hoped that the objective sought by all could be achieved, namely, a proper democratic life through attaining the right to vote, equal voting rights, the release of all political prisoners, the equal enjoyment of the economic resources of the country and, finally, social peace and harmony. The Government should assume its responsibility to assure security for all citizens and put an end to confrontations among black factions. With regard to the negative aspects of the system of government in South Africa, she wished merely to emphasize that the road to the political, economic and social changes that were needed would be long and difficult. In his introductory statement, Mr. Khalifa had highlighted those negative aspects and had called for the continued application of economic sanctions and the continued boycott of the South African Government. The Special Rapporteur should continue his activities with the assistance of the economists he needed and he should extend the scope of his studies in the context of the new developments in the situation in South Africa.

79. Mr. ILKAHANAF commended Mr. Khalifa's informative and extensive report (E/CN.4/Sub.2/1991/13 and Add.1), which was lucid both in form and substance. He joined other speakers in recommending that Mr. Khalifa's work should be continued until apartheid was dismantled. The guidelines and recommendations given by the Secretary-General in his note (E/CN.4/Sub.2/1991/11) had been extremely useful; in that connection he referred particularly to paragraphs 6, 8, 10, 11, 12, 13 and 14.

80. Apartheid, in his view, was still alive and well. There had been positive events in South Africa, including the release of political prisoners, the abolition of some apartheid laws and especially a change of attitude of some of the leaders of the South African regime towards the rights of the black majority. In 1989, he, Mr. Ilkahanaf, had said that maybe during Mr. De Klerk's term of office, apartheid would be dismantled. That remained to be seen; but Mr. De Klerk was trying his best under the circumstances to ensure that the rights of blacks were to a certain extent respected.

81. The negative aspects of recent events included the fact that a majority of political prisoners had not been released and that blacks were being set against blacks, with one group being financed by the security forces to stand in the way of the struggle against apartheid. The lack of progress of political negotiations was also a serious setback: Mr. De Klerk had promised to negotiate with the blacks, but negotiations had not been forthcoming. In comparing negative and positive aspects it could be seen that there had been little positive progress towards dismantling apartheid. The security forces were a very serious obstacle; unless the blacks were given the opportunity to be employed in the security forces that were used to impose apartheid and those forces were completely overhauled, apartheid would continue.

82. He agreed fully with everything Mrs. Warzazi and Mrs. Ksentini had said about the treatment of migrant workers and other groups. Lastly he paid a tribute to the people of South Africa in their struggle against apartheid and recommended that the pressure against apartheid should be continued at the national, regional and international levels.

83. Mr. KHALIFA said that he had received a constant flow of rich input of advice and ideas from his colleagues. He now realized that there was a difference of views in the Sub-Commission on agenda item 5. Nevertheless, the Sub-Commission was not divided: it knew what it wanted and what the civilized world community wanted from it. The members differed only in sizing up the situation and in their place on a continuum ranging from optimism to pessimism. It was a sign of great integrity that when an expert on the Sub-Commission spoke it was impossible to tell which country that expert came from. Mr. Treat had been independent-minded in honestly cautioning the Sub-Commission against impatience and high expectations; he was undoubtedly the leader of the optimistic wing of the Sub-Commission. Mr. Posada, Mr. Sadi and others also belonged to optimists. According to that trend of thought, the positive steps taken by South Africa should not be totally ignored and were irreversible. Mr. Sadi had said that once the genie had sprung from the bottle he would not go back in, forgetting perhaps that there were many genii in many bottles. Some members of the optimistic school would prefer to give South Africa a break and not to wreck maliciously the South African economy which ultimately would be the property of all South Africans. Obviously he did not share that benevolent view.

84. He had underscored the attitude of the United States Government only because that Government had been a pioneer in making sanctions hold for a certain length of time; his report had made that clear. He had a feeling of disappointment because he thought things could have been managed in a better way. Mrs. Palley had warned against ignoring the complexities of the situation and Mr. Heller had said that the Sub-Commission should not ask unrealistically for the abolition of apartheid in South Africa overnight or over a year or perhaps a decade. He entirely agreed; he only wished to make sure that South Africa was sincere in the course on which it had embarked.

85. Some questions remained. First, was the present a good time to lift or ease sanctions? Most of the speakers had considered such a move premature. Mrs. Ksentini had seen eye to eye with his own analysis. Mrs. Attah, while going along with the main ideas of the report, considered, together with Mr. Sadi, that the Sub-Commission should examine the impact of lifting sanctions and whether it would really improve the life of black South Africans. On such a question the assistance of technical experts-economists was needed, and he thanked the Under-Secretary-General and the Secretariat, for their efforts to provide him with that kind of assistance. He hoped that a constant exchange of views would maximize the effect of that much-needed assistance in economic monitoring, analysing and synthesizing the problem. The second question was whether developments in South Africa were irreversible. He personally thought they were not; others had more faith than he in South Africa. The third question was whether his mandate should be extended. The entire membership of the Sub-Commission had been kind enough to renew their confidence in him and to ask him to stay on; he would be honoured to do so.

86. Although Mr. Eide was not happy with the expression "monitoring apartheid in transition" he recommended its retention, since apartheid had not disappeared and the transition would take a long time. There would come a phase which could be called the post-apartheid era, but it had not yet arrived.

87. With regard to Mr. Van Boven's comments, it was a sad situation that the United Nations had agreed to do business with the Société de Banque Suisse, which was on the list of collaborators with South Africa. He recalled a similar case when the time had come for the United Nations to extend the contract of Thomas Cook. He had personally confirmed that Thomas Cook was doing business with South Africa and had officially recommended that the United Nations should not extend its contract, but sadly to no avail.

88. In conclusion he thanked all the members of the Sub-Commission as well as the representatives of Governments and non-governmental organizations for their support.

The meeting rose at 1.05 p.m.